

**CHARLES SHAW
DEPOSITION TRANSCRIPT**

STATE OF MICHIGAN
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

MICHAEL DUPREE, JR., a Colorado Resident,
MICHAEL DUPREE, SR. and DARLENE DUPREE,
his parents, Residents of the Country of Austria,

Plaintiffs:

-vs-

Case No. 2010-CV-120940-LPZ-MKM
Hon. Laurence Zatkoff
Mag. Mona K. Majzoub

CRANBROOK EDUCATIONAL
COMMUNITY, JOHN J. WINTER and
CHARLES SHAW,

Defendants:

_____/

The deposition of CHARLES SHAW, taken before
Lisa M. Fix, a Certified Shorthand Reporter and Notary
Public for the County of Wayne, State of Michigan, at
38500 Woodward, Suite 100, Bloomfield Hills, Michigan,
on Thursday, the 13th Day of January, 2011, at 12:35
p.m.

APPEARANCES:

THOMAS, GARVEY, GARVEY & SCIOTTI
ATTORNEYS AT LAW
24825 Little Mack
St. Clair Shores, Michigan 40808
By: CHRISTOPHER SCIOTTI, ESQ.
Appearing on behalf of the Plaintiff:

HONIGMAN, MILLER, SCHWARTZ & COHN
ATTORNEYS AT LAW
660 Woodward, Suite 2290
Detroit, Michigan 48226
By: RUSSELL S. LINDEN, ESQ.
Appearing on behalf of the Defendant:

ALSO PRESENT: John Winter

1 A Sure. That would be a Bachelor's degree from
2 Trinity College in Hartford, Connecticut, and a
3 Master's degree from Middlebury College.

4 Q And what has your employment history been with
5 Cranbrook?

6 A I was employed in the fall of 1976, so this is
7 year 35.

8 Q And can you tell me the position that you've held
9 at Cranbrook?

10 A I was a teacher until 1995. I became the Dean of
11 faculty in 1995 to 2003. And the head of the
12 upper school in 2003.

13 Q Okay. And what were your job duties as head of
14 faculty from 1995 to 2003?

15 A The Dean of faculty oversees all the evaluation
16 systems, oversees professional development, the
17 implementation of job description, and performance
18 of duties.

19 Q So you are -- you are reviewing faculty members,
20 essentially?

21 A That is correct.

22 Q And then in 2003 you became --

23 A The head of the upper school. That would be the
24 fall of 2003.

25 Q Now, between 1995 and 2003, before you became head

1 MR. LINDEN: And when we added
2 them are we going in sequential order where we
3 left off in Seibert's?

4 MR. SCIOTTI: Yes. Yes.

5 MR. LINDEN: Okay.

6 MR. SCIOTTI: I added 10, 11,
7 and 12.

8 Q (Continuing by Mr. Sciotti) We were talking about
9 the differences, if any, between the definition of
10 dismissal in the Tuition Refund Program, which I
11 believe is Exhibit Number 4 in front of you, and
12 the definition in the 2003, 2004 handbook, which
13 I'm handing you is marked Exhibit 12. And are
14 there, in your opinion, are there any differences?

15 A Well, this is a commercial firm definition that's
16 imported from a company, and this is a definition
17 -- this is not a definition.

18 Q Okay. What's the standard at Cranbrook to dismiss
19 a student?

20 A A pattern of violations of school rules.

21 Q Okay. Now, what were the reasons that Michael
22 Dupree, Jr. was dismissed?

23 A A pattern of violations of major school rules.

24 Q And what were those? What was that pattern?

25 A Well, um, a pattern was the combination of two

1 major school rule violations.

2 Q And what were those two major school rule
3 violations?

4 A The possession of a marijuana pipe, and the
5 violation of a Technology Use Policy.

6 Q Okay. Now, about the marijuana pipe, and we're
7 going to get into that in a little bit. When you
8 call it a marijuana pipe, did you see it? Did you
9 see the pipe?

10 A Yes.

11 Q And why do you refer to it as a marijuana pipe as
12 opposed to put any substance in there I guess to
13 smoke?

14 A I suppose you could smoke tobacco in it.

15 Q So if he had a tobacco pipe would it have been a
16 major school violation?

17 A Yes.

18 Q What's the standard to determine whether a student
19 has violated a major rule policy or a pattern of
20 violations? I mean who determines that?

21 A The handbook. Set forth in the handbook.

22 Q Okay. And as far as dismissal is concerned,
23 what's the standard for dismissal? I'm trying to
24 get an idea, is there a vote, or do you determine
25 whether --

1 A It's a pattern of violations of major school
2 rules.

3 Q And who determines that the pattern was violated?

4 A Well, the rules are set forth in the handbook, and
5 then through a conduct review process violations
6 are determined, and then the Conduct Review Board
7 makes recommendations.

8 Q I guess what I'm asking is through the Conduct
9 Review Board what's the -- what's the proof? I
10 mean if there's just -- I'm just going to give you
11 kind of a rule or a proof. If there's just a tiny
12 bit of evidence, or does it have to be a hundred
13 percent certain? Us lawyers, we use, you heard
14 beyond a reasonable doubt.

15 A Right.

16 Q More likely than not. I mean is there a burden of
17 proof --

18 A No.

19 Q -- that has to be met?

20 A No, it's not a judicial proceeding.

21 Q Okay.

22 A It's not a legal proceeding.

23 Q So --

24 A We proceed on what we know to be the truth.

25 Q Right. Well, it's not always, and we can get back

1 school.

2 Q And where do you find that rule?

3 A Um, that rule is in the handbook.

4 Q Okay. Is there some kind of timetable when a
5 student can be dismissed prior to receiving a
6 diploma?

7 A Well, a student is subject to dismissal until the
8 time -- until the award of the diplomas.

9 Q So if the faculty meets before graduation and
10 votes to award a student a diploma, can that
11 diploma be revoked by dismissal after that?

12 A Yes.

13 Q And who would make that decision?

14 A The head of the upper school, with the director of
15 schools.

16 Q So you -- in this case you and Miss Seibert could
17 make that decision?

18 A There would be a Conduct Review Board prior to
19 that. But there are 24 hours between the voting
20 of the diplomas.

21 Q Okay. Mr. Dupree's -- the faculty did not vote on
22 Mr. Dupree, Jr.'s diploma; is that correct?

23 A That is correct.

24 Q And the reason was he had already been dismissed?

25 A Correct.

1 Q Could you look at Deposition Exhibit Number 1?

2 A I'm looking at it, yes.

3 Q What is that?

4 A These are the notes from the Conduct Review
5 Meeting for Michael.

6 Q Of March 11th?

7 A March 11th, yes.

8 Q And Sharon Peacock made these notes?

9 A That's correct.

10 Q Now, other than Deposition Exhibit Number 1 and
11 Deposition Exhibit Number 2 that you can look at,
12 are there any other written --

13 A No.

14 Q -- evidence of --

15 MR. LINDEN: Let him finish
16 the question.

17 MR. SCIOTTI: Yeah.

18 MR. LINDEN: Let him finish
19 the question.

20 THE WITNESS: Sorry.

21 Q (Continuing by Mr. Sciotti) Is there any other
22 written evidence of that Conduct Review Board?

23 A No.

24 Q Who's Eric L?

25 A That would be Eric Linder, I believe.

1 Q Okay.

2 A The -- I remember it.

3 Q Okay.

4 A In fact, strong recollection of it.

5 Q You do have an independent recollection of it?

6 A Yes.

7 Q Tell me without looking at Exhibit 6, or feel free
8 to look at it, actually. What do you remember?

9 A Of what in particular?

10 Q Just prior to this Conduct Review.

11 A Well, I don't participate in the review.

12 Q I know that.

13 A Okay.

14 Q But you said you had a recollection of it taking
15 place.

16 A Yes. Yes.

17 Q So is your recollection of it taking place after
18 it took place, or did you have some knowledge that
19 it was going to take place?

20 A Oh, I knew it was going to take place.

21 Q Okay. And how did you know that?

22 A Well, we were made aware of it by IT that Michael
23 was in, that his computer files, his H. drive was
24 in receipt of files containing passwords.

25 Q Okay. And that's from Exhibit 7?

1 A What do you mean by Exhibit 7?

2 Q I mean that's how you learned? That's how you
3 learned?

4 A That is one of the ways in which we learned, yes.

5 Q Any other ways?

6 A Well, we learned that students were looking at
7 tests that belonged to faculty members on their
8 computers.

9 Q Okay. And did you think Michael had any input
10 into that?

11 A Into?

12 Q Allowing students to look at tests.

13 A I don't know.

14 Q Okay. If you could look at Exhibit 6 again. And
15 look at both pages. There's -- I mean there's
16 writing on that page which I can read, and then
17 there's faint writing which appears to be in a
18 mirror almost that I really can't read. But I
19 think it might be -- where's the original?

20 A As we speak here?

21 Q Yeah.

22 A I couldn't tell you that.

23 Q But an original exists, or just a copy?

24 A I couldn't tell you that.

25 Q Okay. I mean do you know why this --

1 decision.

2 Q So that is yes, you made the decision?

3 A Yes.

4 Q Okay. Is that your decision alone?

5 A In consultation with the deans.

6 Q Okay. And what were the -- from the Conduct
7 Review Board's -- or I guess from the deans
8 recommendations, what were the violations that you
9 felt warranted dismissal?

10 A Michael was in receipt of a file of passwords and
11 log ins.

12 Q Was that the sole fact?

13 A Yes.

14 Q Okay. Did you consider the fact that he gave his
15 password to Randy in September of '03 --

16 A Yes.

17 Q -- was that part of -- was that part you your
18 decision also?

19 A That was part of the decision, yes.

20 Q So that what I'm trying to find out, were the
21 factors that led you to recommend dismissal after
22 he completed all of the academic requirements?

23 A Yes, the fact that he gave a student his
24 password --

25 Q And --

1 A -- is also part of that.

2 Q And did you know that he gave Randy his password
3 in September, and then Michael changed his
4 password?

5 A I don't know that, no.

6 Q If you look on Exhibit 6, which I think is in
7 front of you. I think down about the middle of
8 the page, a little bit lower, it says, "a few days
9 after he gave," and I assume that's Randy, which
10 is blacked out, "his password, M.D.", which I
11 assume is Michael Dupree, "changed his password."
12 Would that matter to you?

13 A I don't -- I don't know that to be the case. This
14 is -- I don't know that to be the case, no.

15 Q Well, if it was the case would it have mattered to
16 you?

17 A No.

18 Q And why not?

19 A The violation was to give a password to another
20 student.

21 Q Okay. So what other factors? He had a file with
22 student passwords?

23 A And he had given his password to another student.

24 Q And those were the two violations?

25 A Yes.

1 Q And those were the two reasons for dismissal?

2 A That's correct.

3 Q Did you consider any other punishment?

4 A We talk about other -- we talk about all the
5 ranges, the whole range.

6 Q And what were the ranges?

7 A Well, for this particular offense you're talking
8 about?

9 Q Yes.

10 A Oh, there is no other -- let me back up and say
11 for this particular offense there is no other
12 alternative that I would be considering.

13 Q Okay. Would it have mattered to you whether
14 Michael knew that he had those other passwords on
15 his computer?

16 A Would you repeat the question?

17 Q Yeah. Would it matter to you, back in May or June
18 of '04, whether Michael had actual knowledge that
19 the passwords were on his computer?

20 MR. LINDEN: I guess I'm going
21 to object to the question on form, and it assumes
22 fact not in evidence, and it's a hypothetical.

23 Can you read back the question
24 so Mr. Shaw can answer the question, please?

25 (Whereupon the last question

1 was read back.)

2 THE WITNESS: I can't answer
3 the question.

4 Q (Continuing by Mr. Sciotti) Was it enough for you
5 to dismiss him just to know those passwords were
6 on his computer?

7 A No.

8 Q Okay. It didn't matter to you that he gave out
9 his password in September and then changed it?

10 A That's correct.

11 Q Okay. And it didn't matter to you that that
12 occurred before March of 2004?

13 A Correct.

14 Q Were there any other factors that you considered
15 for his dismissal other than what we talked about?

16 A The fact he was on probation.

17 Q Okay. Did you consider allowing him to obtain his
18 diploma and not participate in graduation?

19 A No.

20 Q When deciding to dismiss Michael Dupree, Jr. from
21 Cranbrook knowing he had completed all of his
22 academic studies, what were you -- what were you
23 attempting to accomplish?

24 A A student must be in good standing in order to
25 receive a diploma.

1 A He was dismissed.

2 Q Okay. So tell me the reasons, then, it's a
3 correct transcript.

4 A It's correct.

5 Q Tell me the reasons it is, because the way I --

6 A It's consistent --

7 Q Go ahead.

8 A It's consistent with how we record the withdrawal
9 and dismissals of students. It's consistent with
10 how all students are processed at the time of --

11 Q So it doesn't matter whether a student withdrawals
12 or is dismissed, you're going to put --

13 A Correct.

14 Q -- withdrawal, right?

15 A Correct.

16 Q And aren't you misleading colleges or anybody
17 that's looking at this?

18 A No.

19 Q You're not?

20 So when you send this to
21 Purdue are they going to assume that he was
22 dismissed?

23 A I don't know the answer to that question.

24 Q You don't think this Exhibit Number 5 is at all
25 misleading?

1 extent we deem warranted.

2 Q So that's the reason that you -- I'm not following
3 you. Tell me why every student that's dismissed
4 for a conduct violation gets a withdrawal put on
5 their transcript instead of a dismissal.

6 A Well, um, the reason for that is to provide
7 support to families who have the option to go
8 forward and get our support as a school, and give
9 our maximum resources to aid that student --

10 Q Give me an example.

11 A -- and the family.

12 So that we can talk with a
13 college or university, and the college or
14 university is looking at a box that says
15 withdrawal, and that covers both families that
16 were dismissed and families who withdrew.

17 Q So in this case you dismissed Michael Dupree, Jr.,
18 but you put withdrawal on the transcript to
19 actually help him?

20 A That is in this case, yes.

21 Q So how did you help him?

22 A We continued to advocate him for -- advocate for
23 him to gain admission to keep his admission in the
24 school.

25 Q Do you know where the transcripts -- his